

<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

performance of duty. OWCP accepted her claim for right ankle sprain on November 16, 2000. Appellant received compensation benefits through December 20, 2000.

In a letter dated February 1, 2012, appellant requested additional medical treatment for her right ankle condition. She noted that she was disabled due to bipolar disorder and no longer worked for the employing establishment. Appellant filed a recurrence of disability claim on April 22, 2012 alleging loss of bone mass and pain due to arthritis and a right ankle sprain.

In a letter dated May 2, 2012, OWCP requested additional medical evidence from appellant including a narrative medical report addressing her history of injury, current clinical findings, test results and diagnostic studies.

By decision dated July 27, 2012, OWCP denied appellant's claim on the grounds that she failed to submit any evidence in support of her claimed recurrence of disability.<sup>2</sup>

### **LEGAL PRECEDENT**

A recurrence of disability means an inability to work after an employee has returned to work, caused by a spontaneous change in a medical condition which had resulted from a previous injury or illness without an intervening injury or new exposure to the work environment that caused the illness. This term also means an inability to work that takes place when a light-duty assignment made specifically to accommodate an employee's physical limitations due to his or her work-related injury or illness is withdrawn or when the physical requirements of such an assignment are altered so that they exceed his or her established physical limitations.<sup>3</sup>

Appellant has the burden of establishing by the weight of the substantial, reliable and probative evidence a causal relationship between her recurrence of disability and her September 26, 2000 employment injury.<sup>4</sup> This burden includes the necessity of furnishing medical evidence from a physician who, on the basis of a complete and accurate factual and medical history, concludes that the disabling condition is causally related to employment factors and supports that conclusion with sound medical reasoning.<sup>5</sup>

### **ANALYSIS**

Appellant filed a recurrence of disability claim on April 22, 2012 alleging that she had loss of bone mass due to arthritis resulting from her September 26, 2000 employment-related right ankle sprain. She did not submit any medical evidence in support of her claim.

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<sup>2</sup> On appeal to the Board, appellant submitted new evidence. As OWCP did not consider this evidence in reaching a final decision, the Board may not consider it for the first time on appeal. 20 C.F.R. § 501.2(c)(1).

<sup>3</sup> 20 C.F.R. § 10.5(x).

<sup>4</sup> *Dominic M. DeScala*, 37 ECAB 369, 372 (1986); *Bobby Melton*, 33 ECAB 1305, 1308-09 (1982).

<sup>5</sup> *See Nicolea Bruso*, 33 ECAB 1138, 1140 (1982).

As appellant did not submit any medical evidence in support of her allegation that she had sustained a recurrence of disability due to her September 26, 2000 employment injury, she has failed to meet her burden of proof. In order to establish a recurrence of disability, she must submit medical evidence from a physician addressing how her current condition is causally related to her accepted employment injury. Without any current medical evidence, appellant has not established a recurrence of disability.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

### **CONCLUSION**

The Board finds that appellant has not submitted any medical evidence necessary to support her claim for a recurrence of disability and therefore has failed to meet her burden of proof.

### **ORDER**

**IT IS HEREBY ORDERED THAT** July 27, 2012 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 14, 2013  
Washington, DC

Patricia Howard Fitzgerald, Judge  
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge  
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge  
Employees' Compensation Appeals Board